

Superior Court of the State of California
County of Orange
TENTATIVE RULINGS FOR DEPARTMENT CM06
HON. JUDGE Megan L. Wagner

Date: 06/24/2025

Court Room Rules and Notices

#	Case Name	Tentative
01	Tapia – Trust 01397326	<p style="text-align:center">MOTION TO DISMISS</p> <p>Respondent and Co-Trustee Lynn Schedlinski (“Respondent”) moves to dismiss this action for lack of jurisdiction. Alternatively, Respondent seeks dismissal based on the doctrine of forum non conveniens. The motion is opposed by Petitioner Robert Tapia (“Petitioner”).</p> <p>The motion to dismiss is DENIED in its entirety.</p> <p>Subject matter jurisdiction cannot be waived, forfeited, or conferred by consent, waiver, agreement, acquiescence or estoppel, and a judgment issued by a court lacking subject matter jurisdiction is void. (<i>Drink Tank Ventures LLC v. Real Soda in Real Bottles, Ltd.</i> (2021) 71 Cal.App.5th 528, 543.) Thus, Respondent has not waived the issue of subject matter jurisdiction.</p> <p>Nonetheless, Respondent’s motion to dismiss conflates venue with jurisdiction. Venue, which determines the proper <i>county</i> to bring an action, is determined based on the principal place of administration of the subject trust. (Prob. Code § 17005.) The principal place of administration of the trust is irrelevant to the issue of subject matter jurisdiction.</p> <p>Further, jurisdiction over a trust is not determined based solely on the location of the trustee. (See Law Revision Commission Comments to Prob. Code, § 17004; see also as persuasive authority only, <i>Napier v. Napier</i>, 2007 Cal. App. Unpub. LEXIS 5516, 2007 WL 1956278 (Cal. App. July 6, 2007) (unpublished) [“Nothing in the Probate Code deprives a California court of jurisdiction that would otherwise exist over a particular proceeding merely because the principal place of administration changes to a location outside California.”].)</p> <p>The court has subject matter jurisdiction over the internal affairs of a trust, regardless of the principal place of administration. (Prob. Code § 17000(a); <i>Van Buskirk v. Van Buskirk</i> (2020) 53 Cal.App.5th 523.)</p> <p>Thus, the motion to dismiss for lack of subject matter jurisdiction is denied.</p>

		<p>Personal jurisdiction is based on the U.S. Constitution. (Prob. Code § 17004; <i>Van Buskirk v. Van Buskirk</i> (2020) 53 Cal.App.5th 523.) The moving papers do not state any facts concerning whether the court has personal jurisdiction over Respondent.</p> <p>There is no deadline for filing a motion to stay or dismiss based on the doctrine of forum non conveniens, and such motion may be made by a party who has already made a general appearance. (Code Civ. Proc. §410.30(b).) Thus, Respondent has not waived her right to move to dismiss based on forum non conveniens.</p> <p>Pursuant to Code of Civil Procedures section 397(c), on motion of any party, a judge may change the place of trial of an action or proceeding to promote the convenience of witnesses and the ends of justice. The burden is on the moving party to establish grounds for the transfer. (<i>Lieberman v. Superior Court</i> (1987) 194 Cal.App.3d 396, 401.) The moving party must sustain this burden of proof by a detailed declaration specifying the name of each witness, including the witnesses expected to testify for the opposing party (<i>Juneau v. Juneau</i> (1941) 45 Cal.App.2d 14, 15–17), and the expected testimony of each (<i>Stute v Burinda</i> (1981) 123 Cal.App.3d Supp 11, 17). The declaration must show that each witness's testimony is material, necessary, and admissible. (<i>J.C. Millett Co. v Latchford-Marble Glass Co.</i> (1959) 167 Cal.App.2d 218, 225, 334; <i>Edwards v Pierson</i> (1957) 156 Cal.App.2d 72, 75; <i>Harden v Skinner & Hammond</i> (1955) 130 Cal.App.2d 750, 755.) The declaration also must state why it would be inconvenient for the witnesses to appear in the court in which the action is pending (<i>Stute v Burinda, supra</i>, 123 Cal.App.3d Supp at p. 17.) The moving party's declaration must also set forth facts from which the judge may conclude that the ends of justice will be promoted if the motion is granted. (<i>Pearson v. Superior Court</i> (1962) 199 Cal.App.2d 691, 696.)</p> <p>Here, the moving papers are supported only by the declaration of attorney Bryan C. Hathorn. The declaration does not identify any witnesses or potential witnesses or their expected testimony. Thus, Petitioner has not met her burden of showing that California is an inconvenient forum.</p> <p>The motion to dismiss based on the doctrine of forum non conveniens is denied.</p> <p>Counsel for Petitioner is ordered to give notice of this ruling.</p>
02	Ko – Conservatorship 01247317	<p>MOTION FOR JUDGMENT ON THE PLEADINGS (ROA 213)</p> <p>Objector Jong Sik Chi's Motion for Judgement on the Pleadings is DENIED as moot.</p>

		<p>As stated in the moving papers, a motion for judgment on the pleadings is essentially a general demurrer.</p> <p>The filing of an amended petition after a demurrer is filed, but before it is decided, renders the demurrer moot. (<i>JKC3H8 v. Colton</i> (2013) 221 CA4th 468, 477.)</p> <p>This motion for judgment on the pleadings pertains to the Petition for Substituted Judgment filed 9/15/23 (ROA 122). The First Amended Petition for Substituted Judgment was filed on 5/1/25. (ROA 301.)</p> <p>The First Amended Petition is currently the operative pleading. Therefore, the motion for judgment on the pleadings is moot.</p>